

## **REMARKS**

The Final Office Action dated December 7, 2007 has been received and reviewed. This application was unintentionally abandoned due to a failure to respond to the Final Office Action within the statutory time limit. Accordingly, this response is submitted along with a Petition to Revive Based on Unintentional Abandonment, a Request for Continued Examination (RCE) and a Petition for a Three -Month Extension of Time.

Claim 1 has been amended. Support for the amendments can be found in the specification as filed on page 3, lines 22-23; page 17, lines 8-12; and page 24, lines 5-20. No new matter has been added.

The applicants respectfully request reconsideration in view of the foregoing amendments and the following remarks.

### **Claim Rejections- 35 U.S.C. §112**

The Examiner rejected claims 1, 3-9 and 15 under 35 U.S.C. §112, second paragraph as indefinite because the term “the at least one solid” in claim 1 lacks antecedent basis. The applicants have amended claim 1 herein to correct this issue, thus rendering the rejection moot.

### **Claim Rejections- 35 U.S.C. §102(e)**

The Examiner rejected claims 1 and 3-8 under 35 U.S.C. §102(e) as anticipated by Pfeiffer et al. (US 6,492,312). The applicants respectfully traverse this rejection.

The presently claimed invention is now directed to, generally, a packaged detergent composition comprising a container, wherein the detergent *consists of* at least

one liquid and one solid, the solid being an enzyme, bleach, bleach activator or non-ionic surfactant. Pfeiffer comprises many small particles distributed throughout the liquid. For example, Pfeiffer discusses at column 9, lines 11-15 discrete particles that enhance cleaning in a dishwashing machine. Furthermore, Pfeiffer teaches discrete particle enzymes at column 11, lines 28-26. The presently claimed invention, on the other hand, contains only a single solid that floats on the outer surface of the liquid in the composition. The applicants respectfully submit that Pfeiffer fails to teach all of the limitations of the presently claimed invention, particularly a single solid floating in the liquid in the composition. For this reason, Pfeiffer does not anticipate the present invention, and the applicants respectfully request that the Examiner withdraw this rejection.

The Examiner also rejected claims 1, 2-9 and 15 under 35 U.S.C. §102(e) as anticipated by Becks et al. (WO 02/057402). The applicants respectfully traverse this rejection.

Anticipation cannot be established when a reference discloses all of the claimed elements in isolation. Rather, as the Federal Circuit has affirmed repeatedly, the prior art reference must disclose each element of the claimed invention **arranged as in the claim**. *Lindermann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d. 1542, 220 USPQ 193 (Fed. Cir. 1983); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Thus, although a prior art reference includes all the elements that are claimed, if the arrangement of the claimed elements is different from the arrangement of the elements in the prior art reference, anticipation cannot be established.

The presently claimed invention, in addition to its composition described hereinabove, also requires that the solid in the composition have a density lower than the density of the liquid such that the solid floats on the outer surface of at least one liquid. Becks teaches in Example 2 on page 26 a solid fragrance sphere floating on top of a liquid. Contrarily, the solid in the presently claimed invention is decidedly not a fragrance, but is one of an enzyme, bleach, bleach activator or non-ionic surfactant. And although Becks does teach that a solid that can comprise enzymes, bleach, bleach activators and non-ionic surfactants, there is simply no disclosure of any of these components taught in an embodiment containing only one solid floating on top of a liquid, as arranged in the presently claim. Therefore, because Becks does not teach all of the limitations as arranged in the present claims, the applicants submit that Becks does not anticipate the present claims, and respectfully request that the Examiner withdraw the present rejection.

#### Claim Rejections- 35 U.S.C. §103

The Examiner rejected claims 1 and 3-8 under 35 U.S.C. §103(a) as obvious over Pfeiffer; and claim 9 as obvious over Pfeiffer in view of Dasque et al. (WO 01/60966). The applicants respectfully traverse this rejection.

A *prima facie* case of obviousness cannot be established over Pfeiffer and Pfeiffer in view of Dasque because the differences between the presently claimed invention and Pfeiffer are outside the level of ordinary skill in the art. Pfeiffer teaches multiple particles distributed throughout the liquid, whereas the presently claimed invention is directed to only one solid floating on the outer surface of the liquid. The

present invention demonstrates an advancement to the art because a solid in a package has lower density than one having a higher density in that the lower density solid is released in 2 minutes but it takes 4.5 minutes for a higher density solid to release in the wash liquor. (*See*, specification at page 27, line 12 to page 29, line 12 (¶¶ 0099-0107 in the published application US 2005/0153861.))

The situation in Pfeiffer having particles distributed throughout the liquid is the same as that discussed in the specification which results in delayed release of the solid, however, as addressed in the specification the present invention having one solid on the outer surface of the liquid is significantly different in that it alleviates the hindrance of solid release that characterizes compositions like those of Pfeiffer. As such, based on these significant differences between the level of art established by Pfeiffer and the present invention, as set forth in the amended claims, the present invention is not obvious over Pfeiffer.

Moreover, a packaged detergent composition having one solid floating on the outer surface of the liquid would not have been predictable based on the disclosure of Pfeiffer. As discussed above, because the solid particles of Pfeiffer are distributed within the liquid the composition of Pfeiffer would experience the delayed release of the solid. There is no indication within Pfeiffer that the release of the solid particles disclosed therein can be affected by the density of the solid and the location of the solid particles within the liquid. Thus, based on this disclosure of Pfeiffer, one skilled in the art, at the time of the invention, could not predict that including one solid in the liquid composition with a density such that it floats on the outer surface of the liquid would favorably decrease the release time of the solid into the wash liquor. The examples mentioned

above demonstrate this. The claims have been amended to recite that the packaged detergent composition has only one solid which floats on the outer surface of the liquid. Hence, the present invention, as set forth in the amended claims, is not obvious over Pfeiffer.

At page 4 of the Office Action, the Examiner rejects claim 9 under 35 U.S.C. § 103(a) as obvious over Pfeiffer in view of WO 01/60966 to Dasque *et al.* (“Dasque”). Reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner cites to Pfeiffer for the reasons stated above but acknowledges that Pfeiffer does not disclose the composition for use in a dishwashing machine. The Examiner, however, refers to Dasque for the alleged teaching that a detergent composition in a water soluble pouch with similar ingredients is prepared as laundry or dishwashing composition and thus useful in laundry or dishwashing machines. On this basis, the Examiner concludes that the embodiment of claim 9 is obvious over Pfeiffer in view of Dasque.

Claim 9 is dependent from claim 1 in that it applies the detergent composition of claim 1 in a method for washing laundry. As discussed above, the detergent composition of claim 1 having one solid which solid floats on the outer surface of the liquid and resolves the problem in the art related to delayed release of solids from a liquid in the wash liquor is not obvious over Pfeiffer. As such, a method of washing laundry recited in claim 9 comprising the steps of providing this novel and unique detergent composition and releasing the detergent composition in a laundry washing machine is not obvious over Pfeiffer in view of Dasque.

Claim Rejections- Double Patenting

The Examiner provisionally rejected claim 1 under the doctrine of obviousness type double patenting as being unpatentable over claims 1 and 6 of co-pending application USSN 10/505,624. Due to the provisional nature of this rejection, it is premature for the applicants to submit a terminal disclaimer. The applicants respectfully request abeyance of this rejection until patentable subject matter is indicated. At such time, the applicants shall submit any appropriate terminal disclaimer at the appropriate time if necessary at the conclusion of prosecution of this application

The applicants believe the claims are now in condition for allowance, and respectfully request such favorable action. If any issues remain, the resolution of which can be advanced through a telephone conference, the Examiner is invited to contact the applicant's attorney at the phone number listed below.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully requests that this be considered a petition therefore. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account  
No. 14-1263.

Respectfully submitted,

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